

**Zoning Board of Appeals Minutes
June 27, 2017**

ZBA MEMBERS	ZBA MEMBERS ABSENT	STAFF PRESENT
Jim Racheff- Chair Bryan Patchan- Vice Chair Kenneth Ying Lawrence Aronow Tom Overbey, Alternate	Shuan Butcher	Gabrielle Collard– Division Manager for Current Planning Tierre Butler – City Planner Jessica Murphy – Administrative Assistant Rachel Depo—Assistant City Attorney

I. ANNOUNCEMENTS:

II. GENERAL PUBLIC COMMENT:

There was no general public comment.

III. APPROVAL OF MINUTES:

Approval of the **May 23, 2017** Zoning Board of Appeals Meeting Minutes as published:

MOTION: Mr. Patchan motioned to approve the minutes.

SECOND: Mr. Overbey

VOTE: 4-0 (Mr. Racheff Abstained)

IV. PUBLIC HEARING-SWEARING IN:

"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Zoning Board of Appeals will be the whole truth and nothing but the truth." If so, answer "I do".

V. CONTINUANCES:

NONE

VI. OLD BUSINESS:

NONE

VII. NEW BUSINESS

A. ZBA17-182CU, Conditional Use, 110 Airport Drive East

ZBA Action:

MOTION: Mr. Overbey moved to approve ZBA17-182CU based on the comprehensive thirteen points from staff's recommendation finding that:

- 1) The proposed facility will not generate more noise, traffic, pollution, smoke, dust or other adverse impact on adjacent properties greater than that of uses permitted in the IST district, not requiring conditional use approval.
- 2) Based on the documentation supplied by the Applicant, the proposed equipment will not be a hazard to adjacent properties or constitute a nuisance because of radio interference or other potentially disruptive activity associated with the operation of the antenna.
- 3) The Application is proposing the construction of a 79'-6' monopole and has provided confirmation from a structural engineer that the pole is capable of supporting the new antenna as required under the IBC.
- 4) The documentation supplied by the Applicant demonstrates that based on structural capacity and height reasons, there are no technically suitable spaces available on an existing communications towers within the geographic area that the new site is intended to serve.
- 5) Based on the photographs provided, the Applicant has demonstrated that the proposed telecommunications facility will not have an adverse impact on the historic vistas, City gateways or other significant City landmarks.
- 6) That, per the statement from the engineer, the antenna proposed meets the radio frequency safety standards as established by the regulating agency for such antenna(s).
- 7) That the Applicant has provided approval from the Property owner to locate the facility on the Property and the Applicant has agreed to the removal of the facility per the provisions of paragraph (13)(D) of Section 866(a).
- 8) That the Applicant has provided guarantees that the telecommunications facilities will comply with the applicable local, state, and federal rules and regulations.
- 9) The Applicant has filed a letter signed by the Board of Commissioners of Frederick County identifying its interest in the Property and granting the Applicant permission to seek the conditional use.
- 10) That the Applicant has fulfilled all of the public notice requirements mandated under Section 866(a)(13)(A-B).
- 11) That the Applicant has indicated that they will maintain the facility in good condition.
- 12) That the Applicant has provided testimony indicating that co-location is not an acceptable solution to the issue and justifying the proposed site.
- 13) Both the FAA and MAA have made findings that the proposal does not create an obstruction and does not pose a hazard to aviation.

Approval is conditioned upon:

- 1) In accordance with Section 309(d), the Applicant must receive approval of a minor site plan followed by a zoning certificate establishing the use within two years of the approval date or the approval shall become void.
- 2) That prior to the issuance of a building permit, the Applicant must submit to the Planning Division one of the following: a finding of no adverse effect from the applicable state and federal agencies in accordance with Section 106 of the National Historic Preservation Act, a memorandum of agreement (MOA) for mitigation, or a finding that the adverse impacts may be accepted in the public interest.
- 3) That the application for the final site plan for the facility depict Level I screening surrounding the fenced in compound.

SECOND: Mr. Aronow.

VOTE: 5-0.

B. ZBA17-390V, Variance, 510 Culler Avenue

ZBA Action:

MOTION: Mr. Patchan moved to deny ZBA17-390V because it does not support a variance from the required 30' rear setback requirement in the Low Density Residential, R6 zoning district finding that:

- 1) There are no unique or exceptional characteristics of the lot or other extraordinary situations or conditions peculiar to the Property, or of the use there of or of properties immediately adjacent to, that under the strict application of the required rear setback result in a practical difficulty or undue hardship to the owner.
- 2) In the absence of any unique or exceptional characteristics, the application of the Code does not deprive the applicant of rights commonly enjoyed by other properties in the same district.
- 3) That granting the variance will provide the applicant a special privilege that is denied by the LMC to other lands or structures in the same district.

SECOND: Mr. Overbey.

VOTE: 3-1. (Mr. Ying Opposed)

C. ITEMS ADDED TO AGENDA

Zoning Determinations Completed:

- 17-402ZD, 197 Thomas Johnson Drive
- 17-452ZD, 23 Thomas Johnson Drive

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VIII. BOARD BUSINESS: Elections

ZBA Action:

MOTION: Mr. Aronow moved to continue board business to the July 25, 2017 Zoning Board of Appeals Hearing.

SECOND: Mr. Overbey.
VOTE: 5-0

Meeting adjourned approximately at 8:30 p.m.

Respectfully Submitted,

Jessica Murphy
Administrative Assistant

APPROVED 09/26/2017